IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL MISC. APPLICATION NO. 69 OF 2005.

1. Sunita Bhaduria.
2. Mr. Ravishankar Singh Bhadauria.
3. Mrs. Reena Singh Bhaduria.
   All residents of 2 Namdar Manzil,
   4th Pasta Lane, Colaba, Mumbai. .... Applicants.

Versus

Ram S. Singh Parihar,
resident of Shri Darshan,
Dhavli, Ponda, Goa. .... Respondent.

Shri I. Agha, Advocate for the Applicants.

CORAM: N. A. BRITTO, J.

DATE: 28th APRIL, 2005.

O R D E R:

Heard Shri I. Agha, the learned counsel on behalf of the Applicants who are the accused in C.C. No. 115/P/04 and against whom the learned J.M.F.C. by Order dated 5.1.05 has issued process under Section 500 of I.P.C. The applicants have invoked the jurisdiction of this Court under S.482 of the Code of Criminal Procedure, 1973 for setting aside the said Order issuing process against them and quashing the proceedings of the said criminal case.

2. When asked as to why the applicants have not invoked revisional jurisdiction of this Court or the Court of Sessions, Shri Agha, the learned counsel on behalf of the applicants has submitted that this Court has also jurisdiction under Section 482 of the Code to quash and set aside the said Order issuing process against the applicants and quashing the proceedings in the said criminal case. However, in my view, as observed by the Hon'ble Supreme Court in the case reported in ***State of A.P. v. Goloconda Linga Swamy & Anr. (2004 (6) Supreme 19)***, the question is not that there is a bar, but the question is a self imposed limitation or rather a wise restraint since other remedy is available to correct the errors.

3. In the case of Dr. ***Mohan N. Bhawe v. M/s. Travel Force*** (unreported decision dated 6.4.05 in Cr.M.A. No. 52/05) I have held that a party against whom process has been issued by a criminal court has a twofold remedy, one which could be termed as ordinary remedy under S.397 of the Code and the other could be termed as an extraordinary remedy under S.482 of the Code. I do not find that the applicants herein have made out any extraordinary situation or any exceptional case for invoking the said extraordinary jurisdiction and the grievances of the applicants could as well be dealt with in revisional jurisdiction. The revisional jurisdiction has been conferred concurrently on the High Court

as well as on the Court of Sessions. In the case of ***Jitendra R. Deshprabhu v. Laximikant Yeshwant Parshekar*** (unreported decision dated 23.12.04 in Criminal Revision Application No.28/04), after considering several decisions of this Court, I have come to the conclusion that it is the choice of the superior court whether revision petition should be entertained by it or not by allowing a party to by-pass an inferior court. Considering the grievances made by the applicant, I do not consider that this is a fit case to exercise extraordinary jurisdiction under S.482 of the Code or to exercise the revisional jurisdiction under S.397 of the Code, by by-passing the Court of Sessions.

4. The petition/application of the applicants shall therefore be returned to them and they will be at liberty to present the same before the Court of Sessions. In case the petition is presented within a period of 15 days after the same is returned to the applicants, the learned Sessions Judge before whom the same is presented shall register the same as a revision petition against the Order issuing process against the accused and dispose of the same in accordance with law, as expeditiously as possible.

N. A. BRITTO, J.

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